

Date: Tue, 16 Jan 2024 10:17:18 -0500

**Why are you making these changes now?**

You may recall that Apple won a resounding victory in the Epic case, with nine of 10 claims having been decided in Apple's favor. While we are introducing this change pursuant to the state law claim in that decision, we continue to believe Apple's in-app purchase system is the most convenient, safe, and secure way for users to purchase digital goods and services.

**How will these changes impact users?**

We believe Apple's in-app purchase system is the most convenient, safe, and secure way for users to purchase digital goods and services. For developers considering using this entitlement along with in-app purchase, which continues to be required for the purchase of digital goods and services within the app — it's important to understand that some App Store features, such as Ask to Buy or Family Sharing, won't be available to their customers when they make purchases on the developer's website. Apple also won't be able to assist customers with refunds, purchase history, subscription management, and other issues encountered when purchasing digital goods and services. Developers will be responsible for addressing such issues with customers.

*(N&A under StoreKit and review guideline update)*

**How will Apple continue to protect users and developers with these new rules in place?**

Apple will require developers to adhere to certain requirements to qualify for and use the Link Entitlement. These requirements are necessary to protect user privacy and security, maintain the integrity of Apple's ecosystem, promote the flow of information, avoid user confusion, and enable efficient review of developers' apps by App Review. They also guard against the uncompensated use of, among other things, Apple's platform, services (including but not limited to marketing and external advertising), and proprietary tools and technologies protected by intellectual property. *(Statement of Compliance, page 4-5)*

These requirements serve a variety of purposes, but they all arise largely from the fact that an External Purchase Link encourages users to leave the app and the Apple ecosystem, and undertake a transaction on the open Internet. Apple has designed the App Store, iOS, and iPadOS so that it can use established and predictable mechanisms to review apps for a variety of purposes, including protecting user security and privacy and deterring fraud and scams. Apple lacks similar capabilities with respect to transactions on the open Internet, as the Court has already recognized. *(Statement of Compliance, page 7)*

**Why is this update only applicable to the U.S. storefront?**

The court order is only applicable to the App Store in the United States.

**Does Apple have plans to enable third-party payment systems globally?**

We continue to believe Apple's in-app purchase system is the most convenient, safe, and secure way for users to purchase digital goods and services.

Our priority is to protect and preserve the user experience and ensure the App Store remains a great business opportunity for developers across the globe. We follow the laws in the jurisdictions in which we operate, and in this case, the court order is only applicable to the App Store in the United States.

**Will Apple reinstate Fortnite to the App Store now?**

Apple has no obligation to reinstate Fortnite onto the App Store. In its September 2021 ruling, the Court found that Epic breached its agreement with Apple and that “Apple has the contractual right to terminate its DPLA with any or all of Epic Games’ wholly owned subsidiaries, affiliates, and/or other entities under Epic Games’ control at any time and at Apple’s sole discretion.” P. 179

**What will be the financial impact of these new rules?**

We have no comment.

Korea/Netherlands

**This all sounds vaguely familiar? Where have you done this before?**

— This is a unique case, but you are correct that there are other markets that require us to use alternative in-app payments other than IAP under specific laws or regulations.

—Those include both the Netherlands and Korea, but the circumstances in those markets are specific to their regulations and laws and do not reflect what is being required in this case, which is applicable to the U.S. only.

**Korea:**

—In Korea, a specific law was passed that allows apps that are distributed in that country to offer alternative payment processing within their apps.

—In Korea the commission rate is 26 percent.

**Netherlands:**

—We have dating apps that are allowed to use in-app alternative payments OR link out to the web to alternative payments.

—In the Netherlands, eligible dating apps receive a 3% discount off the commission for IAP, which is 30% or 15%.

**Why is the commission in Korea 26 percent vs. 27 percent in the Netherlands and the U.S.?**

— These are different models so it’s not an apples to apples comparison.

— With respect to the Korea and Netherlands commission reductions, these were reduced rates that exclude the value related to payment processing and related activities.

**Why not extend beyond dating apps in the Netherlands, now that you have gone further than that in the U.S.?**

— We don't think that linking out is safe or the best experience for our customers. It potentially harms their privacy and security, both personal and financial. We think that our system is the best system and we want to support it worldwide. We don't want to put customers at any additional risk.

**Why does Apple require that developers choose between IAP and a link-out in the Netherlands (and not in the U.S.)?**

— We would prefer to have a global approach but are being required to do different things in different markets to comply with changing local laws and the decisions of local regulators.

**Why do you have different regimes in different countries?**

— We follow the laws, regulations and court decisions in all jurisdictions where we do business.

Developer-specific questions

**How can developers take advantage of these new rules?**

Developers may apply for the StoreKit Purchase Link Entitlement (U.S.). Developers who are approved for the entitlement can include within their apps buttons or links with calls to action directing users to out-of-app purchasing mechanisms other than IAP. (*Statement of Compliance, page 5*)

Developers must continue to offer in-app purchases in accordance with the Developer Agreement and the App Store Review Guidelines. (*Statement of Compliance, page 7*)

**Do developers have to be based in the U.S. to use the new entitlement?**

No. This affects all apps available on the App Store in the U.S., regardless of where the developer is based.

**Why are those who participate in the Video Partner Program or News Partner Program ineligible for the new entitlement?**

The Video Partner Program and News Partner Program aim to deliver new, unique and seamless experiences on the Apple TV app and the News app. They require participating developers to deeply integrate with a set of Apple technologies to enhance the user experience, like search integration, single sign-on and IAP, which we continue to believe is the most convenient and secure way for users to purchase digital goods and services. Participants receive economic

benefits through the program for meeting the high user experience standards of these apps.

### **Video Partner Program**

The Video Partner Program is designed for apps that deliver premium subscription video entertainment services. Participating apps are required to integrate with a number of Apple technologies, such as Universal Search, Siri, AirPlay, and single sign-on or zero sign-on, to ensure a seamless experience for customers.

As a program member, you earn 85% of sales from customers who sign up using Apple's in-app purchase system. You may also allow customers who subscribe using your payment method outside of the app to use that payment method for additional video transactions within the app.

**You must enable in-app purchase to enjoy these economic benefits.**

As a result of this integration, these apps are featured on the Apple TV app and throughout tvOS, and their content is discoverable through Universal Search and Siri.

(<https://developer.apple.com/programs/video-partner/>)

### **News Partner Program**

The News Partner Program, designed for subscription news publications that provide their content to Apple News in Apple News Format. Publishers that work with Apple News may qualify for a commission rate of 15% on qualifying in-app purchase subscriptions from day one. The program is available to Apple Developer Program members globally. ( [Apple Newsroom](#) )

### **Is Apple updating its guidelines for this change? Which does it say?**

Yes, App Store Review Guidelines 3.1.1 and 3.1.1(a) have been updated. See [here](#).

### **Which developers will benefit most from this change?**

Developers have many ways of communicating offers and discounts for digital goods and services to users today. These changes add a new channel from within their app.

Commission

### **Will Apple still collect a commission on payments made outside the App Store?**

The Court did not enjoin Apple's core business model of monetizing the App Store by charging a percentage commission rate on sales of digital goods and services facilitated by its platform. Instead, it found that "under all models, Apple would be entitled to a commission or licensing fee, even if IAP was optional." Perry Decl. Ex. 5, at 67; *see also id.* at 150 ("Even in the absence of IAP, Apple could still charge a commission on developers.").

Accordingly, in view of the substantial value Apple provides to developers, Apple will charge a commission on certain out-of-app purchases of digital goods and services. (*Statement of Compliance, page 12*)

Epic has already recognized that this approach is consistent with the injunction entered in this case: In a publicly available letter regarding parallel litigation against Google, Epic (represented by the same counsel as in this case) acknowledged that an “injunction such as the one ordered in *Epic v. Apple*” would “not prevent Google from . . . introducing a new fee . . . on linked out-of-app transactions.” *Perry Decl. Ex. 19, at 3–4*.

Apple will apply a 27% commission to transactions for digital goods and services that take place on a developer’s website within seven days after a user taps through an External Purchase Link from the system disclosure sheet to an external website. ( *Statement of Compliance, page 12-13*)

Many platforms charge a commission or other fee for similar transactions, with windows ranging from 24 hours to 30 days, or even longer. The App Store affords many more tools to developers than most platforms, and seven days also appropriately credits Apple for facilitating linked transactions. (*Fischer Declaration, page 10*)

### **Why is Apple still collecting a commission on payments made outside the App Store/Is Apple now taxing web purchases?**

The Court did not enjoin Apple’s core business model of monetizing the App Store by charging a percentage commission rate on sales of digital goods and services facilitated by its platform. Instead, it found that “under all models, Apple would be entitled to a commission or licensing fee, even if IAP was optional.” *Perry Decl. Ex. 5, at 67*; *see also id. at 150* (“Even in the absence of IAP, Apple could still charge a commission on developers.”). ( *Statement of Compliance, page 12*)

Charging a commission on transactions facilitated by External Purchase Links not only complies with the Injunction’s plain terms, but is also consistent with the Court’s rationale for upholding Apple’s other App Store policies. All App Store developers—including those who place buttons or links with calls to action in their apps—benefit from (among other things) Apple’s platform integrity, proprietary tools and technologies protected by intellectual property, developer services and support, services that help developers acquire, retain, and reengage users, marketing and external advertising, and a safe environment for users to download and purchase apps and in-app content. (*Statement of Compliance, page 13* )

#### *Developers benefit from:*

—Apple’s “enormous” investment in “tools and features for iOS,” including the “thousands of developer tools, SDKs, and APIs” and Apple’s “constant updating of . . . cellphones to allow for more sophisticated apps.”

— “Access to Apple’s vast consumer base” as well as “the safe environment created by the App Store,” which encourages users to “download apps freely and without care.” (*Statement of Compliance, page 13*)

#### *With Citations:*

Developers benefit from Apple's "enormous" investment in "tools and features for iOS" (Perry Decl. Ex. 5, at 113–14), including the "thousands of developer tools, SDKs, and APIs" and Apple's "constant updating of . . . cellphones to allow for more sophisticated apps." (id. at 67; see id. at 150 ("Apple is entitled to some compensation for use of its intellectual property.")).

Developers also benefit from "access to Apple's vast consumer base" (Perry Decl. Ex. 9, at 14), as well as "the safe environment created by the App Store," which encourages users to "download apps freely and without care" (Perry Decl. Ex. 5, at 111; see also id. at 145 ("Apple provides a safe and trusted user experience on iOS, which encourages users and developers to transact freely and is mutually beneficial.")); Perry Decl. Ex. 9, at 58 (Apple's provision of a "safe and trusted user experience . . . "increas[es] the per-user average number of app transactions")).

"[T]he developer's use of the App Store platform . . . and access to Apple's user base . . . justifies a commission." Perry Decl. Ex. 5, at 118; see also id. at 150 n.617 (developers should not be allowed to "avoid the commission while benefitting from Apple's innovation and intellectual property free of charge").

*(Statement of Compliance, page 13-14)*

### **How did Apple determine the commission rate on payments made outside the App Store?**

All App Store developers—including those who place buttons or links with calls to action in their apps—benefit from Apple's proprietary technology and tools, intellectual property, and access to its user base. This includes Apple's investment in developer tools, SDKs, and APIs, and updates to the platform itself. Apple also provides a safe and trusted experience on its platform, in which users and developers transact freely.

Apple is charging a commission on digital purchases initiated within seven calendar days from link out. This will not capture all transactions that Apple has facilitated through the App Store, but is a reasonable means to account for the substantial value Apple provides developers, including in facilitating linked transactions. *(N&A under Commission, transaction reports, payments)*

### **Why is the commission only applicable for seven days? How did Apple arrive at that time frame?**

Many platforms charge a commission or other fee for similar transactions, with windows ranging from 24 hours to 30 days, or even longer. The App Store affords many more tools to developers than most platforms, and seven days also appropriately credits Apple for facilitating linked transactions. *(Fischer Declaration, page 10)*

Undoubtedly, this window will not capture all transactions that Apple has facilitated through the App Store, but it balances (1) Apple's entitlement to a commission for purchases facilitated through the App Store, even if the user waits a small amount of time after leaving the App Store to actually finalize the purchase, with (2) the fact that the longer the time between the link out and the purchase, the more attenuated the connection between the purchase and Apple's facilitation of the purchase. Through out-of-app communications ( *see infra* ), developers can



encourage users to go directly to the website, without the use of an External Purchase Link and without incurring a commission. At all times, users remains free to select whichever purchasing method they prefer. (*Statement of Compliance, page 14*)

**Through what mechanism do you plan to collect the commission?**

If a developer adopts the entitlement, they will be required to provide a monthly transaction report within 15 calendar days following the end of the calendar month. Even if there were no transactions, developers will be required to provide a report stating that is the case.

In the future, if Apple develops an API to facilitate reporting, developers will be required to adopt such API within 30 days with an update of their app and follow the timing and requirements provided.

If payment to Apple is due, developers will receive an invoice based on the reporting and will be required to remit payment to Apple for the amount invoiced within 30 days of the invoice being issued.

*If pressed:* How will Apple enforce payment of the commission?

Late payments bear interest at the rate of one percent (1%) per month or the highest rate permitted by law, whichever is less.

Apple has audit rights pursuant to the entitlement terms. This will allow Apple to review the accuracy of developers' records of digital transactions as a result of the entitlement, ensuring the appropriate commission has been paid to Apple. Failure to pay Apple's commission could result in the offset of in-app purchase proceeds owed to developers, or other consequences such as removal of their app from the App Store, or termination from the Apple Developer program.

**How are you planning on complying with the DMA order on linking out?**

We are continuing to evaluate how to implement solutions for DMA compliance.

*If pressed:* "DMA compliance is expected to start sometime in the first half of this year."

**Once the DMA is in effect, does Apple plan to collect a commission on apps installed through side loading?**

We are continuing to evaluate how to implement solutions for DMA

*If pressed:* "DMA compliance is expected to start sometime in the first half of this year."

IAP

**Will developers be allowed to use both IAP and an external link within their app?**

Apps that include external links must continue to offer in-app purchases in accordance with the



Developer Agreement and the App Store Review Guidelines. *(Statement of Compliance, page 7)*

Developers may not discourage end-users from making in-app purchases. *(Statement of Compliance, page 7)*

These requirements help give developers a meaningful opportunity to “entice users to other platforms” (Perry Decl. Ex. 5, at 93), while also enabling users to make an informed choice between “the convenience of IAP” and out-of-app payment systems. (Perry Decl. Ex. 7, at 4). *(Statement of Compliance, page 10)*

Reader apps may either maintain their status as reader apps or they must use IAP along with the Link Entitlement.

**Why can the link out not be contained next to or within the IAP flow?**

The requirements regarding placement of the External Purchase Links serve multiple purposes, including preventing users from being overloaded with duplicative information that might interrupt their app experience, ensuring a consistent user experience, minimizing confusion between options, and reducing the risk of users inadvertently leaving the app. *(Statement of Compliance, page 10)*

They also prevent developers from free-riding on Apple’s reputation for creating a “seamless” purchasing mechanism and protect Apple’s right to require IAP for all in-app purchases, which the Court did not enjoin. *(Statement of Compliance, page 10)*

**How does this new entitlement affect those developers in the Small Business Program and those that offer auto-renewing subscriptions?**

Developers eligible for and participating in the App Store Small Business Program will be charged a 12% commission on purchases made within seven days after a user taps on an External Purchase Link and continues from the system disclosure sheet to an external website. Auto\*renewals in the second year or later of an auto\*renewing subscription that was purchased within seven days after a user taps through an External Purchase Link from the system disclosure sheet will be charged a 12% commission. *(Statement of Compliance, page 13)*

**Apple’s in-app purchase rules require developers to offer users a way to restore their purchases. Will the same be required for external purchases?**

We believe Apple’s in-app purchase system is the most convenient, safe, and secure way for users to purchase digital goods and services. It’s important to understand that some App Store features, such as Ask to Buy or Family Sharing, won’t be available to customers when they make purchases on a developer’s website. Apple also won’t be able to assist customers with refunds, purchase history, subscription management, and other issues encountered when purchasing digital goods and services. Developers will be responsible for addressing such issues with customers. *(N&A, StoreKit and review guideline update)*

Tough QA

**I have to believe that cynics or antagonists of the App Store are going to say this is really a rouse, because charging 27 percent vs 30 percent is not going to make financial sense to developers. Hence, they are going to have to continue using IAP. Is that a fair accusation against Apple?**

—We believe the discounted commission rate we have put into place — which is not 27 percent, but actually 12 percent for the vast majority of developers who qualify for the Small Business Program — is a reasonable commission for all of the tools, services and other support that Apple provides to all developers across its ecosystem.

—We believe we are complying with what the court has requested of us — to facilitate out-of-app transactions through this entitlement.

—As a reminder the judge specifically said: “under all models, Apple would be entitled to a commission or licensing fee, even if IAP was optional.”

**Why are you making this so hard and so unattractive for developers?**

— We disagree with the suggestions that this program is onerous.

— The system we have set up is easy to understand and consistent with how we approached similar requirements in different markets.

— More critically, anything we are doing that may feel onerous is directly tied to protecting the user experience that we have built around the App Store — that is what is most important for Apple. And the District Court recognized this important right.

— To the extent there is any friction (apply for entitlement, display a system disclosure sheet) — that is for the benefit of customers, to inform that they are leaving the app and going to an external website and to clarify that Apple is not responsible for the privacy or security of purchases made on the web.

**How would you respond to the allegation that these changes do not seem to comply with the spirit of what YGR said in her ruling?**

— Let’s be clear about what the judge said.

— She modified guidelines in the U.S. storefront and didn’t provide replacement language.

— She maintained our ability to collect a commission on our intellectual property AND use IAP. We have done exactly what she asked for.

On Jan 15, 2024, at 1:12\*PM, Marni Goldberg <marni\_goldberg@apple.com> wrote:

**Hi all — thank you so much for the time. Just a quick note — we will send through an updated QA and deck once we have all of the final final final** documents. We'd like to minimize the number of versions we pop into your inbox!

**Prep for Wisconsin briefing**

Scheduled: Jan 15, 2024 at 12:00\*PM to 1:00\*PM, EST

Location: Virtual Conference One-Time Room

Invitees: Marni Goldberg, Adam Dema, Jennifer Brown, Hannah Smith, Fred Sainz, Heather Grenier, Carson Oliver, Peter Ajemian

Video Call:

One-Time Room

Webex Meetings

[REDACTED]

Phone

[REDACTED]

Global call-in numbers:

[REDACTED]

Dial from video system [AVCN]:

Enter the Meeting ID: [REDACTED]

Hoping this time can work -- please let me know.

Marni Goldberg

[REDACTED]